

DISCUSSION OF THE AMENDMENT

Claims 1, 4, 11, 14, 17, 20, and 22-29 are active in the present application.

Independent Claim 1 has been amended to include the limitations of previously pending Claim 2 and to state that the particle is chemically bonded to the silicone compound. Support for the amendment is found in the second paragraph on page 11. Claims 2-3, 5-10, 12-13, 15-16, 18-19 and 21 are cancelled claims. Claims 24-29 are new claims. Support for new Claims 24-25 is found in the paragraph bridging pages 5 and 6. Support for new Claim 26 is found in the paragraph bridging pages 5 and 6. Support for new Claim 27 is found in the third full paragraph on page 7. Support for new Claim 28 is found in the second full paragraph on page 13. Support for new Claim 29 is found in the Examples.

No new matter is added.

REMARKS

The presently claimed invention includes a water-absorbing particle that is chemically bonded to a silicone compound. The claimed cosmetic composition is shown to provide improved shaving stress (e.g., less stressful shaving) and smoothness. This effect of the claimed invention is shown in Table 1 on page 45 of the specification.

Example 4 of Table 1 is a cosmetic composition that includes water-absorbing polymer particles that are not coated and chemically bonded to a silicone compound having at least one kind of functional group. Example 4 is therefore a comparative example to the presently claimed invention. In contrast to Examples 1-3 which meet the requirements of the water absorbing polymer particles of present Claims 1 and 23, Example 4 provides higher shaving stress and lower smoothness on shaving. Applicants submit that the aforementioned examples demonstrate that in order to get good shaving performance it is critical that the water absorbing polymer particles be coated and chemically bonded to a silicone compound having at least one kind of functional group.

The prior art relied on by the Office does not disclose or suggest the composition of the present claims and further does not disclose or suggest that improved shaving performance may be obtained when the polymer particles of the present claims are used in a cosmetic composition. Applicants thus respectfully request allowance of the now-pending claims.

In the Office Action of December 8, 2006, the Office stated that the term “hydrophobated” would not give one of ordinary skill in the art any direction to the intended meaning. Applicants submit that the Office’s assertion in this regard is not correct. The original specification provides examples and explicit descriptions of different hydrophobated materials. Thus, the Office’s assertion that the original specification does not provide “any direction” as to the meaning of the term hydrophobated is not supportable. If the Office’s

comments in the second full paragraph on page 3 of the Office Action are intended to represent an objection to this term, Applicants traverse any such objection for the reasons stated above.

The Office further assumed that the term hydrophobated means “a hydrophobic entity linked to a hydrophilic polymer.” Applicants submit that this is not a correct interpretation of the term “hydrophobated” as it is used in the present specification. For example, the Office assumes that the hydrophobic entity must be linked to a hydrophilic polymer. However, the original specification discloses that the polymer may include types of polymers that are not necessarily hydrophilic. Applicants note that the original claims recite that the polymer particles are water-absorbing.

The Office rejected the previously presented claims as anticipated in view of a patent to Modi (US 6,083,492). Applicants submit that the rejection of the present claims as anticipated by Modi is not supportable at least because Modi does not disclose compositions that include particles of a water-absorbing hydrophobated polymer that are chemically bonded to a coating made of a silicone compound. Applicants submit that the compositions of Modi may include polymer-type materials; however, the prior art polymer-type materials are not present as discrete particles but are instead dissolved in the prior art carrier. In fact, in the examples of Modi, in the one instance where the presence of particles is described, Modi discloses that the prior art cosmetic composition (e.g., antiperspirant) is not finished in its preparation until after all of the remaining particles are dissolved. Thus, contrary to the Office’s assertion, Modi does not disclose cosmetic compositions comprising particles of a hydrophobated water-absorbing polymer. Instead, at best, Modi discloses compositions that include a polymer in a dissolved form, i.e., not present in the form of discrete particles. In effect, where the claimed invention calls for a water absorbent polymer Modi, at best, discloses a particle that has water soluble characteristics.

Applicants thus submit that the rejection of Claims 1 and 23 in view of Modi is not legally supportable and should be withdrawn.

The Office rejected previously presented Claims 2, 11-13, 18 and 22 as obvious over a combination of Modi with Iley (US 4,818,292). Applicants submit that Iley's disclosure of anti-foaming granules would not lead those of ordinary skill in the art to the presently claimed invention at least because Modi and Iley are in non-analogous arts.

Iley is drawn to an "anti-foam ingredient for detergent compositions" (see the Title of Iley). Iley does not disclose any cosmetic composition. In fact, the particulate anti-foam ingredient of Iley is one that is explicitly described as one that is "for incorporation in a detergent powder product" (see the Abstract of Iley). The Office makes no attempt to explain why one of skill in the cosmetics art would turn to Iley as inspiration for any aspect of the presently claimed invention. Applicants submit that those of ordinary skill in the art readily recognize that compositions such as detergent powders are not suitable for direct application to human skin or inclusion in cosmetic compositions. Applicants submit that it is readily evident that the physical properties of detergent materials are substantially different from the physical properties of cosmetic compositions such as antiperspirants.

Applicants thus submit that the combination of Modi with Iley is not supportable and the rejection should be withdrawn as it applies to the subject matter of any of previously pending Claims 2, 9, 11-16, 18 and 22.

The Office rejected Claims 4, 10 and 20-21 as obvious in view of Modi combined with Bacon (US 6,110,449). As already stated above, Applicants submit that Modi does not describe all of the present claim limitations and thus cannot anticipate the presently claimed subject matter. The Office combined Bacon with Modi as support that a particular particle size may be preferred. Applicants note, however, that the particles of Bacon are a particular particle of a cyclodextrin. There is no evidence of record that cyclodextrin is water absorbing.

Moreover, Bacon does not disclose compositions that include a polymer made from vinyl units or acrylic units (see new dependent Claims 27 and 28). A cosmetic composition containing a hydrophobated water-absorbing polymer made from a vinyl and/or acrylic monomer unit must therefore be patentable over Bacon.

Further still, Bacon does not disclose the silicone bonding of the presently claimed invention. For example, the crosslinking agents disclosed in column 4 lines 53-63 of Bacon are not silicone based.

The Office rejected independent Claim 3 as anticipated in view of a patent to Galleguillos (US 5,635,166). The amendment to the claims obviates the rejection.

For the reasons discussed above in detail, Applicants submit that all now-pending claims are in condition for allowance and respectfully request the mailing of a Notice of Allowance to acknowledge the patentability of the present claims over the cited prior art.

INFORMATION DISCLOSURE STATEMENT

Page 2 of the December 8 Office Action indicates that the Information Disclosure Statements (IDS) of May 13 and August 9, 2005, do not comply with 37 C.F.R. § 1.98(a)(3) and therefore were not considered by the Examiner. The Office objected to the May 13 IDS on the grounds that no "concise explanation of the relevance of the cited references was provided." Applicants submit that the IDS of May 13, 2005, provided the references cited on an International Search Report which itself explicitly describes the relevance of the prior art to the claimed subject matter. Thus the Office's objection in this regard is not supportable. Likewise, the IDS of August 9 included a Statement of Relevancy which pointed out that the references cited on the Form PTO-1449 were discussed in the specification. Therefore, a concise explanation of the relevance of each of the prior art references with respect to the presently claimed invention has been provided.

Moreover, the references of the August 9 IDS were submitted together with English Abstracts.

Applicants submit that the Office's refusal to consider the information provided in the IDSs of May 13 and August 9, 2005 does not comport with USPTO policy as it relates to Information Disclosure Statements. Applicants thus respectfully point out that the Office should not issue any final rejection citing the references of the IDSs of May 13 or August 19, 2005 in the Office's response to the present Amendment.

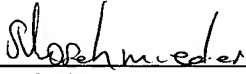
Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.
Norman F. Oblon

Customer Number

22850

Tel: (703) 413-3000
Fax: (703) 413 -2220
(OSMMN 03/06)
NFO:SUK\dt



Stefan U. Koschmieder, Ph.D.
Registration No. 50,238